UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/751,801	12/29/2000	Scott D. Leapman	1957	5937

30408 7590 01/11/2005		EXAMINER
GATEWAY, INC.		LASTRA, DANIEL .

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ART UNIT	PAPER NUMBER
3622	

DATE MAILED: 01/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/751,801	LEAPMAN ET AL.
	Examiner	Art Unit	
	DANIEL LASTRA	3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>10/29/04</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-49</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-49</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

1.   Claims 1-49 have been examined. Application 09/751,801 (SYSTEM AND

METHOD FOR TARGETED ADVERTISING) has a filing date 12/29/2000.

Response to Amendment

2.   In response to Non final rejection dated 07/29/04, the Applicant amended claims

10, 14, 33 and added new claims 38-49. Applicant amendment overcame the Section

112 rejection of claim 10.

Claim Rejections - 35 USC § 102

3.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-5, 7, 8, 10-16, 18-22, 24-43 and 45-47 are rejected under 35

U.S.C. 102(e) as being anticipated by Dowling et al (U.S. 6,522,875).

As per claim 1, Dowling teaches:

A method for broadcast advertising to a mobile communication device,

comprising the steps of:

storing acceptance data in the communication device (see column 9, line 40 – column 10, line 40);

receiving by the communication device a broadcast advertisement containing advertisement data and comparing the advertisement data to the acceptance data to obtain a comparison result (see column 9, line 40 – column 10, line 40).

As per claim 2, Dowling teaches:

The method of claim 1, wherein the broadcast advertisement is received by the communication device through a wireless communication channel (see column 8, lines 25-45).

As per claim 3, Dowling teaches:

The method of claim 2, wherein the broadcast advertisement is received by the communication device through one of: a radio transmission, a television transmission, a Bluetooth signal, and an infrared signal (see column 8, lines 25-35).

As per claim 4, Dowling teaches:

The method of claim 1, wherein the broadcast advertisement is received by the communication device from one of a billboard and a storefront (see column 10, lines 10-40; column 12, lines 60-67).

As per claim 5, Dowling teaches:

The method of claim 1, wherein the acceptance data comprises preferences for accepting broadcast advertisements specified by a user of the communication device (see column 9, line 40 – column 10, line 39).

As per claim 7, Dowling teaches:

The method of claim 1, further comprising the step of displaying the broadcast advertisement on the communication device based on the comparison result (see column 9, line 40 – column 10, line 40).

As per claim 8, Dowling teaches:

The method of claim 1, further comprising the step of storing the broadcast advertisement on the communication device based on the comparison result (see column 10, lines 10-40; column 12, lines 24-31).

As per claim 10, Dowling teaches:

The method of claim 1, further comprising the step of outputting a notification signal to a user of the communication *device* if comparison of the advertisement data to the acceptance data is accepted (see column 11, lines 25-54).

As per claim 11, Dowling teaches:

The method of claim 1, further comprising the step of sending an indicator signal to a source of the broadcast advertisement, wherein the indicator signal notifies the source that the communication device is within a broadcast range of the broadcast advertisement (see column 11, lines 25-40).

As per claim 12, Dowling teaches:

The method of claim 1, further comprising the step of communicating through the communication device with a wireless positioning system (see column 11, lines 25-40).

As per claim 13, Dowling teaches:

The method of claim 12, wherein the wireless positioning system is GPS (see column 11, lines 25-40).

Claim 14 contains the same limitations as claims 1 and 5 therefore the same rejection is applied.

Claim 15 contains the same limitation as claim 11 therefore the same rejection is applied.

Claim 16 contains the same limitation as claim 2 therefore the same rejection is applied.

Claim 18 contains the same limitation as claim 7 therefore the same rejection is applied.

Claim 19 contains the same limitation as claim 1 therefore the same rejection is applied.

Claim 20 contains the same limitation as claim 2 therefore the same rejection is applied.

Claim 21 contains the same limitation as claim 3 therefore the same rejection is applied.

Claim 22 contains the same limitation as claim 5 therefore the same rejection is applied.

Claim 24 contains the same limitation as claims 1 and 7 therefore the same rejection is applied.

Claim 25 contains the same limitation as claim 8 therefore the same rejection is applied.

Claim 26 contains the same limitation as claim 12 therefore the same rejection is applied.

Claim 27 contains the same limitation as claim 13 therefore the same rejection is applied.

Claim 28 contains the same limitation as claim 1 therefore the same rejection is applied.

Claim 29 contains the same limitation as claim 11 therefore the same rejection is applied.

Claim 30 contains the same limitation as claim 2 therefore the same rejection is applied.

Claim 31 contains the same limitation as claim 5 therefore the same rejection is applied.

Claim 32 contains the same limitation as claim 2 therefore the same rejection is applied.

Claim 33 contains the same limitation as claims 1, 5 and 7 therefore the same rejection is applied.

Claim 34 contains the same limitation as claim 11 therefore the same rejection is applied.

Claim 35 contains the same limitation as claim 2 therefore the same rejection is applied.

Claim 36 contains the same limitation as claim 5 therefore the same rejection is applied.

Claim 37 contains the same limitation as claim 12 therefore the same rejection is applied.

As per claim 38, Dowling teaches:

The method of claim 1, wherein the advertisement data of the broadcast advertisement is capable of generating a display of an advertisement on the communication device (see column 4, lines 45-62).

As per claim 39, Dowling teaches:

The method of claim 1, wherein the advertisement data of the broadcast advertisement is capable of generating a display of an advertisement on the communication device without the communication device receiving additional data (see column 9, lines 55-65).

As per claim 40, Dowling teaches:

The method of claim 1, further comprising the step of displaying an advertisement on the communication device generated from the advertisement data if the comparison result indicates that the broadcast advertisement meets the acceptance data (see column 9, lines 40-65).

As per claim 41, Dowling teaches:

The method of claim 40, further comprising the step of rejecting the broadcast advertisement for display on the communication device if the comparison result indicates that the broadcast advertisement does not meet the acceptance data (see column 9, lines 40-65).

As per claim 42, Dowling teaches:

The method of claim 1, wherein the advertisement data includes at least one of: a company name, a brand name, information about a product, information about a service, price information, and a deadline for a special offer (see column 4, lines 20-30).

As per claim 43, Dowling teaches:

The method of claim 1, wherein the acceptance data includes at least one of: a company name, a brand name, product information, service information, price information, and a deadline for a special offer (see column 4, lines 20-30).

As per claim 45, Dowling teaches:

The method of claim 1, wherein the step of storing the acceptance data on the communication device comprises manually entering the acceptance data on the communication device by the user (see column 17, lines 45-60).

As per claim 46, Dowling teaches:

The method of claim 1, wherein the step of storing the acceptance data on the communication device comprises selecting by the user the acceptance data from a predetermined list of acceptance data on the communication device (see column 10, lines 59-61).

As per claim 47, Dowling teaches:

The method of claim 1, wherein the step of storing the acceptance data on the communication device comprises selecting by the user acceptance data from a template of acceptance data on the communication device (see column 10, lines 55-61; column 11, lines 25-54).

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed
> or described as set forth in section 102 of this title, if the differences between the
> subject matter sought to be patented and the prior art are such that the subject
> matter as a whole would have been obvious at the time the invention was made
> to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was
> made.

Claims 6, 9, 17, 23, 48 and 49 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Dowling et al (U.S. 6,522,875) in view of Huang et al (U.S.

6,571,245).

As per claim 6, Dowling teaches the method of claim 1, but fails to teach further

comprising the step of modifying the acceptance data by integrating entries from a

personal information manager. Huang teaches a web page personal information

manager which interface with personal digital assistance computers (see figure 10;

column 13, lines 15-39). Therefore, it would have been obvious to a person ordinary

skill in the art at the time the application was made, to know that users of the Dowling

system would use a personal information manager to input data, as taught by Huang,

which would interface with the personal digital assistance taught by Dowling (see

column 7, lines 23-26). The personal information manager would give users a more

friendly display to input data and manage files.

As per claim 9, Dowling teaches the method of claim 8, but fails to teach further

comprising the steps of: reading deletion data in a stored advertisement, wherein the

deletion data indicates criteria for deleting the stored advertisement; and deleting the stored advertisement from the communication device based on the deletion data. Huang teaches a web page personal information manager which interface with personal digital assistance computers and which allows to save and delete files in a similar manner as a desktop computer (see figure 10; column 8, lines 63-67; column 13, lines 15-39). Therefore, it would have been obvious to a person ordinary skill in the art at the time the application was made, to know that users of the Dowling system would use a personal information manager to input data and delete files, as taught by Huang, which would interface with the personal digital assistance taught by Dowling (see column 7, lines 23-26). The personal information manager would give users a more friendly display to input data and manage files.

Claim 17 contains the same limitation as claim 6 therefore the same rejection is applied.

Claim 23 contains the same limitation as claim 6 therefore the same rejection is applied.

As per claim 48, Dowling teaches:

The method of claim 1, but fails to teach further comprising the step of:

creating acceptance data from data from a personal information manager. However, the same rejection applied to claim 6 is applied to claim 48.

As per claim 49, Dowling and Huang teach:

The method of claim 48, wherein the data from the personal information, manager includes an event, and the acceptance data created from the data from the

personal information manager regarding the event causes acceptance of broadcast advertisements related to the event (see Dowling column 11, lines 1-54; column 14, lines 57-67).

Claim 44 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dowling et al (U.S. 6,522,875) in view of McAuliffe et al (U.S. 5,838,790).

As per claim 44, Dowling teaches:

The method of claim 1, but fails to teach wherein the broadcast advertisement includes an expiration date upon which the broadcast advertisement is purged from the communication device. However, McAuliffe teaches a system where ads are purged from the communication device upon detecting that the ad had expired (see figure 5). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Dowling would delete the ads from the mobile unit upon detecting that the ads had expired, as taught by McAuliffe. This feature would ensure that the user's mobile unit displays current and updated ads.

Response to Arguments

5.   Applicant's arguments filed 10/29/04 have been fully considered but they are not persuasive. The Applicant argues that the broadcast packets of Dowling do not include advertisement data. The Examiner answers that Dowling teaches "A geographical web browser has an added advantage of providing a new means for advertising locally available items such as products and services. The user interested in a certain product or service logs into a geographically controlled web site and configures the packet filter to display information related to a user's needs. In one example the mobile unit 105

enters a new city and the user is interested in finding a mall with a particular clothing store within. As the user drives along, a web page comes up and provides directions to the shopping mall and also optionally provides an inside map of the mall to include directions to the desired store. This form of advertising helps both the consumer and the storeowners". Also, "For example, a filter is preferably employed to cause the network connection to only be activated when the mobile unit enters a locality associated with a web site of interest. For example, a hungry user entering a new city is interested in seeing web pages for local restaurants. Based upon the GPS position indication a list of restaurants in surrounding localities is downloaded into the memory of the mobile unit. When the GPS receiver indicates the mobile unit is in a designated locality, web pages of those restaurants in the local area are downloaded or retrieved from memory and displayed" (see column 4, lines 55-62). Therefore, Dowling teaches broadcast packets that includes advertisement data.

The Applicant argues that the Dowling system is very vague about the contents or makeup of the broadcast-data packet and does not indicate that the packet includes advertisement data. The Examiner answers that Applicant's claim 1 is also very broad as it recites "storing acceptance data in the communication device; receiving by the communication device a broadcast advertisement containing advertisement data; and comparing the advertisement data to the acceptance data to obtain a comparison result". Dowling teaches a system where users create packet filters that selectively passes advertisements' broadcast packets deemed to be of interest to the users (see column 9, lines 55-65). Therefore, when given their broadcast reasonable interpretation,

the claims on examination sweep in the prior art, and the prior art, which is Dowling would have directed an artisan of ordinary skill to make the rejection cited by the examiner.

Conclusion

6.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 703-306-5933. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ERIC W STAMBER can be reached on 703-305-8469. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Daniel Lastra
01/01/05

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